

**Bureau of Land Management  
Winnemucca District Office  
HRFO (W010)**

**Categorical Exclusion**

**CX#: DOI-BLM-NV-W010-2014- 0030-CX**

**Date: 6/6/2014**

Lease / Case File / Serial #: N-92823

Regulatory Authority (CFR or Law): 2800

BLM Manual: 2800

Subject Function Code: 2810

Is the project located within a Preliminary Priority Habitat? ☐ Yes ☒ No

Is the project located within a Preliminary General Priority Habitat? ☐ Yes ☒ No

Is the project located within a National Landscape Conservation System feature (NCA, Wilderness, WSA, ISA, Scenic or Historic Trails)? ☐ Yes ☒ No

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1. BLM District Office: Winnemucca District Office

2. Name of Project Lead: Debbie Dunham

3. Project Title: Petersen Road N-92823

4. Applicant: Kim Petersen

5. Project Description: (briefly describe who, what, when, where, why, how)

On October 1, 2013, Mr. Petersen was granted temporary ROW N-92325, valid from October 1-31, 2013, for two temporary access roads across a small section of public land to his private property to accommodate a Fall Farm Festival to be held each weekend in October. It is his intent to make this an annual event and to increase the number of community events he hosts through the year. He is looking to add Easter, Christmas, and some special community events throughout the summer. He is planning a Nevada Elected Officials Barbeque in September, 2014.

He would like to increase the ROW area and duration of the grant period. His former ROW Grant, N-92325, allowed for two 30 foot access roadways (one 78 feet long and one 201 feet long) for a total of 1.92 acres, across a small (approximately 2.1 acres) triangle of public land located at T. 35., R. 37 E., sec. 24, NENW, in Humboldt County, Nevada.

He is requesting to increase the new ROW grant, N-92823, to include the full 2.1 acre parcel, located at T. 35., R. 37 E., sec. 24, W2NENW, in an effort to provide parking, maintenance of

the access roads, and access to the parcel to remove litter and weeds along the fence lines.

While inspecting the site for the temporary ROW Grant, N-92325, it was determined by BLM staff that the entire 2.1 acre parcel had been pre-disturbed over the years. Mr. Petersen is requesting to increase the grant period to 30 years. Extending the period of time will allow for the installation of a thin layer of base rock or gravel on the two roadways mitigating dust issues.

Access to and through this parcel provides safe and direct egress and ingress to a private parcel #14-111-17 that is utilized to park cars and school busses during the community events and would provide direct access off of Grass Valley Road. During the remainder of time, access to and through this parcel will be gated off.

The new ROW N-92823, will have the same access roads as in the temporary ROW N-92325. The northern most access road would be approximately 78 feet long and the second access road would be approximately 201 feet long, with both roads being 30 feet wide. A dump truck will spread a thin layer of reject base rock on the roadway for the access roads only and then spread and pack it with a road grader. A water truck would also be used during the event to water the driveways also assisting in dust control.

Encroachment permits from NDOT would be acquired along with permission to use this section of ground which currently has a mineral material permit and encompasses the triangular section of public land (identified on the maps). Mr. Petersen has community support for the Fall Festival and already has Commercial Use Permit from the Planning Department.

**Additional Information:**

Project dimensions (length, width, height, depth): two access roads: one - 30 feet X 78 feet and one - 30 feet X 201 feet.

Total Acres: 1.95

BLM Acres: 1.95

Will the project result in new surface disturbance? ☐Yes ☒No

Has the project area been previously disturbed? ☒Yes ☐No ☐N/A

If yes, what percent of the project area has been disturbed? 100%. If only part of the project area has been disturbed, indicate disturbed area on map. Describe disturbance (and attach photo of disturbed area if you have one):

6. Legal Description: T.35 N., R. 37 E., sec.24, W2NENW.

USGS 24k Quad name: Winnemucca West, NV

100k map name: Winnemucca, NV

Land Status: ☒ BLM ☐ Private ☐ Other\_\_\_\_\_.

**Part I: Plan Conformance Review**

The Proposed Action is subject to the:

- ☐ Paradise-Denio Management Framework Plan
- ☒ Sonoma-Gerlach Management Framework Plan
- ☐ Black Rock Desert-High Rock Canyon Emigrant Trails NCA and Associated Wilderness and Other Contiguous Lands in Nevada RMP

The proposed action is in conformance with the applicable Land Use Plan (LUP) because it is specifically provided for in the following LUP decision(s):

L-4: To provide lands for rights-of-way on or across public lands.

**Part II: NEPA Review**

Categorical Exclusion Review: This Proposed Action qualifies as a categorical exclusion under:

- ☐ 43 CFR 46.210 DOI Implementation of NEPA of 1969, Listing of Departmental Categorical Exclusions (*formerly 516 DM2 Appendix 1*)
- ☒ 516 DM 11.9, (BLM) E. Realty #16: Acquisition of easements for an existing road or issuance of leases, permits, or rights-of-way for the use of existing facilities, improvements, or sites for the same or similar purposes.

**ESA and BLM Sensitive Status Species**

<b>Evaluation Criteria</b>	<b>Yes</b>	<b>No</b>
1. Are species listed under the Endangered Species Act likely to occur in the project area? If yes, list the species in Table 1 below. Verify with USFWS or use approved list.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2. Are BLM NV Sensitive Species, based upon the current IM, likely to occur in the project area? If yes, list the species in the Table 1 below.	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Could the proposed action result in “take” under the Migratory Bird Treaty Act? If yes, attach appropriate mitigation measures.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**Table 1. Special Status Species that may occur in the project area:**

<b>ESA</b>	<b>BLM</b>	<b>Common (Scientific) Name</b>	<b>May Be Affected?</b>	<b>Mitigation for BLM Sensitive Species (The following stipulation(s) is/are recommended to be applied to the authorization) (Attach ESA Section 7 Compliance to Form, if applicable)</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	ferruginous hawk ( <i>Buteo regalis</i> ), Swainson’s hawk ( <i>Buteo swainsoni</i> ), burrowing owl ( <i>Athene cunicularia</i> ), loggerhead shrike ( <i>Lanius ludovicianus</i> ), sage thrasher ( <i>Oreoscoptes montanus</i> ), vesper sparrow ( <i>Pooecetes gramineus</i> ), Brewer’s sparrow ( <i>Spizella breweri</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	In order to avoid potential impacts to breeding migratory birds, a careful visual inspection of habitat in the project area should be made prior to any surface disturbance (including cross-country routes, turn-around areas and parking areas) during the avian breeding season (March 1 <sup>st</sup> through August 31 <sup>st</sup> ). Nesting activities may include eggs or young present in nest, adult behavioral displays (e.g. dive-bombing, faking injury, won’t leave the area, agitated calling, etc.). If active nests are located, the BLM biologist must be notified immediately and appropriate protection measures which may include avoidance or restriction of activities will be established.
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/>	<input type="checkbox"/>		<input type="checkbox"/> Yes <input type="checkbox"/> No	

**Table 2. Migratory Bird Treaty Act Consideration**

<b>Potential MBTA Species w/in the Project Area Common (Scientific) Name</b>	<b>May Be Affected?</b>	<b>Recommended Mitigation (The following stipulation(s) is/are recommended to be applied to the authorization)</b>
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(This list is representative of species found at this site, but may not be comprehensive.)  northern harrier ( <i>Circus cyaneus</i> ), prairie falcon ( <i>Falco mexicanus</i> ), common nighthawk ( <i>Chordeiles minor</i> ), gray flycatcher ( <i>Empidonax wrightii</i> ), black-billed magpie ( <i>Pica hudsonia</i> ), horned lark ( <i>Eremophila alpestris</i> ), rock wren ( <i>Salpinctes obsoletus</i> ), green-tailed towhee ( <i>Pipilo chlorurus</i> ), lark sparrow ( <i>Chondestes grammacus</i> ), black-throated sparrow ( <i>Amphispiza bilineata</i> ), sage sparrow ( <i>Amphispiza belli</i> ), western meadowlark ( <i>Sturnella neglecta</i> ), Brewer's blackbird ( <i>Euphagus cyanocephalus</i> ), house finch ( <i>Carpodacus mexicanus</i> )	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Same mitigation as for Special Status Species, in Table 1, above.
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	
	<input type="checkbox"/> Yes <input type="checkbox"/> No	

*Mitigation Measures/Remarks (The following stipulation(s) is/are recommended to be applied to the authorization): "See Attached"*

The Proposed Action has been reviewed to determine if any exceptions described in 43 CFR 46.215 Categorical Exclusions: Extraordinary Circumstances apply. (See attached page)

**Part III: DECISION:**

I have reviewed this plan conformance and NEPA compliance record and have determined that the proposed project is in conformance with the approved land use plan and that no other environmental analysis is required.

☒ Project authorization is subject to mitigation measures identified above. (This is a NEPA Decision. A separate program implementation decision is necessary.)

☐ Based on regulatory authority or law that allows BLM to take action, it is my decision to allow for implementation of the project, as described, with the mitigation measures identified above and attached as stipulations, conditions of approval, terms of conditions, etc. This is a combined NEPA and program implementation decision.

Authorized Official \s\James W. Schroeder  
(Signature)

Date: August 1, 2014

**Administrative Review or Appeal Opportunities**

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to James W. Schroeder, Humboldt River Field Office, 5100 East Winnemucca Boulevard, Winnemucca, Nevada 89445. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825-1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).